

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, MISSOURI

STATE OF MISSOURI ex rel.)	
Attorney General Chris Koster and)	
Missouri Department of)	
Natural Resources,)	
)	
Plaintiff,)	
)	
v.)	Case No. 14JE-CC00831
)	
JOHN KING and)	
KING'S CONSTRUCTION)	
EXCAVATING AND HAULING, LLC ,)	
)	
Defendants.)	

CONSENT JUDGMENT

Plaintiff, by and through its relators Attorney General Chris Koster and the Missouri Department of Natural Resources, and Defendants John King and King's Construction Excavating and Hauling LLC, by and through counsel, consent to the entry of this Consent Judgment.

The Court has read Plaintiff's Petition for Injunctive Relief and Civil Penalties, in which Plaintiff alleges that Defendants violated the Missouri Clean Water Law (Chapter 644, RSMo) and its implementing regulations. The Court is satisfied that the provisions of this Consent Judgment are intended to resolve the issues raised by the Petition, and to resolve any issues related to any alleged violations of Missouri environmental laws and regulations, which may pre-date this Consent Judgment, and that the

parties want to terminate this controversy and consent to the entry of this Consent Judgment.

This Consent Judgment is made, agreed upon and submitted to the Court for the purpose of settlement only, so that the parties avoid the risks, costs and inconvenience of proceeding to trial, and upon the condition that the Court approves it in its entirety. In the event the Court does not approve of this Consent Judgment in its entirety and as agreed by the parties, it shall be null and void and have no effect in this or any other proceeding. The parties understand and agree that each and every term of this Consent Judgment shall be enforceable by further order of this Court, and to that end, the Court retains jurisdiction of the matter in order to enforce each and every term of this Consent Judgment. The Court finds that the terms of this Consent Judgment protect the public's interest.

The parties hereto, having consented to the entry of this Consent Judgment, now therefore, before the taking of any testimony and upon the pleadings, it is hereby ORDERED, ADJUDGED AND DECREED that:

I. Objectives of the Parties

1. The objectives of the parties to this Consent Judgment are to protect human health and the environment and to resolve allegations contained in Plaintiff's Petition.

II. Definitions

2. Terms used herein shall have the same meaning as provided in Chapter 644 RSMo and the regulations adopted thereunder. In addition, the following terms are specifically defined:

a. “Consent Judgment” means this Consent Judgment and all attachments, which are included by reference and fully enforceable as a term of the judgment.

b. “Defendants” means John King and King’s Construction Excavating and Hauling LLC.

c. “Department” means the Missouri Department of Natural Resources.

d. “Plaintiff” and “State” means the State of Missouri on the relationship of Attorney General Chris Koster and the Department.

III. Jurisdiction and Venue

3. This Court has jurisdiction over the subject matter and the parties in this case pursuant to § § 644.076.1 RSMo Supp. 2013.¹ Venue is proper in this court pursuant to § § 644.076.1 RSMo Supp. 2013 because the Defendants' conduct giving rise to this action took place in Jefferson County.

¹ All statutory references shall be to the Missouri Revised Statute 2000 unless specifically stated otherwise.

IV. Parties Bound

4. The provisions of this Judgment shall be binding upon the parties to this action as well as their agents, servants, employees, heirs, successors, assigns, and to all persons, firms, corporations and other entities who are, or who will be, acting in concert or privity with, or on behalf of the parties to this action or their agents, servants, employees, heirs, successors, and assigns. Defendants shall provide a copy of this order to all persons or entities retained to perform work required by this order.

V. Satisfaction and Reservation of Rights

5. Upon the completion of all terms of this Consent Judgment, including the payment of civil penalties, completion of all schedules of compliance and the payment of any stipulated penalties due under the terms of this Consent Judgment, Defendants are relieved of liability for the violations alleged in the petition.

6. This Consent Judgment shall not be construed to limit the rights of the State to obtain penalties or injunctive relief under the Missouri Clean Water Law or its implementing regulations, or under other federal or state laws, or regulations, except as expressly stated in the preceding paragraph of this Consent Judgment. Without limiting the foregoing, the parties expressly agree that:

a. Nothing in this Consent Judgment shall prevent the State from applying to this Court for further orders or relief if violations of this Consent Judgment occur.

b. Nothing in this Consent Judgment shall preclude the State from seeking equitable or legal relief for violations of the Missouri laws or regulations that were not alleged in the petition.

c. Nothing in this Consent Judgment shall preclude the State from seeking equitable or legal relief for future violations of the Missouri Clean Water Law or regulations promulgated under its authority.

d. The State of Missouri further reserves all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment arising at, or posed by, Defendants' facility, acts or omissions, whether related to the violations addressed in this Consent Judgment or otherwise.

VI. Injunctive Relief

7. Defendants are ordered to comply with all State of Missouri environmental statutes and all implementing regulations for any and all future activities in the State of Missouri.

VII. Civil Penalty

8. Defendants consent to the entry of judgment in favor of the State of Missouri for a civil penalty of \$10,000.00. The State consents to suspension of \$8,000.00 of the penalty and forgiving same, on condition that Defendants do not violate the Missouri Clean Water Law for two years from entry of this Consent Judgment.

9. The Court hereby assesses against Defendants a civil penalty of \$10,000.00 and suspends \$8,000.00 of the penalty for a period of two years on condition that Defendants do not violate the Missouri Clean Water Law for two years from the entry of this Consent Judgment. If Defendants violate the Missouri Clean Water Law within two years from entry of this Consent Judgment, the State may file a motion with the Court for an order to Defendants to pay all or part of the suspended penalty.

10. Defendants are hereby ordered to pay the unsuspended portion of the civil penalty in the amount of \$2,000.00 by check made payable to the "*State of Missouri (Jefferson County)*" within thirty (30) days of the entry of this Consent Judgment by mailing same to: Collections Specialist, Missouri Attorney General's Office, P.O. Box 899, Jefferson City, MO 65102-0899.

VIII. Investigative Costs

11. Defendants consent to the entry of judgment in favor of the Department of Natural Resources for investigation costs in the amount of \$ 836.95.

12. Defendants are hereby ordered to pay \$836.95 by check made payable to the "*State of Missouri (Department of Natural Resources)*" within thirty (30) days of the entry of this Consent Judgment by mailing same to: Collections Specialist, Missouri Attorney General's Office, P.O. Box 899, Jefferson City, MO 65102-0899.

IX. Court Costs

13. Defendants shall pay all court costs in this action.

X. Signatories


The parties hereby consent to this Consent Judgment through their duly authorized representatives as indicated below.

By: John King
John King, on behalf of himself and
King's Construction Excavating and Hauling, LLC

R. Felt Reed
Attorney for Defendants
Mo Bar # 42841

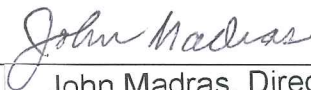
Date: 5/11/16

On behalf of the State of Missouri

By: 
Timothy P. Duggan
Assistant Attorney General

Date: 5/24/2016

MISSOURI DEPARTMENT OF NATURAL RESOURCES

By: 
John Madras, Director
Water Protection Program

Date: 5/31/16

SO ORDERED.



Jun 09, 2016, 11:26 am

Circuit Judge

Date: June 9, 2016